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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/719,224

11/21/2003

Janet K. O'Grady

T-733

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02/09/2009

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EXAMINER

ARNOLD, ERNST V

ART UNIT

PAPER NUMBER

1616

MAIL DATE

DELIVERY MODE

02/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

JANET K. O'GRADY, MAUREEN SULLIVAN MORRISSEY,
ALEXANDER NOVIKOV and RONALD MCLAUGHLIN

Application No. 10/719,224
Technology Center 1600

Mailed: February 9, 2009

Before GLORIA HENDERSON, *Review Team Paralegal*
HENDERSON, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on August 5, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter(s) requiring attention prior to docketing are identified below.

APPEAL BRIEF, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Appeal Brief filed September 6, 2007, under the heading “Grounds of rejection to be reviewed on appeal” is unclear and/or is not consistent with the grounds of rejection of claims of record. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified.

A review of the last Office action dated June 27, 2007, listed claims rejected as 1-6 and 22-32. Claims 22 and 23 are missing from the Grounds of Rejection of the Appeal Brief filed September 6, 2007. Correction of the Grounds of rejection to be reviewed on appeal is required for clarification of the record.

EXAMINER’S ANSWER

Also, the Examiner’s Answer mailed December 28, 2007 is defective because it is missing the information involving claims 22 and 23 which are rejected under 35 U.S.C. 103(a).

MPEP 1207.02 states in part:

(9) *Grounds of Rejection*. For each ground of rejection maintained by the examiner and each new ground of rejection (if any), an explanation of the ground of rejection.

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed on September 6, 2007 defective;
- 2) notify Appellant to file a Supplemental Appeal Brief properly addressing the Grounds of rejection of all claims;
- 3) consider the Supplemental Appeal Brief and if the Supplemental Appeal Brief is in compliance, issue and mail a Form PTOL-90 acknowledging receipt and consideration of the Supplemental Brief;
- 4) if necessary, vacate the Examiner's Answer mailed December 28, 2007, and mail a Supplemental Examiner's Answer including the missing information involving claims 22 and 23 under the heading (9) Grounds of Rejection of the Examiner's Answer; and
- 5) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

GJH

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